

## TEXAS COASTAL MANAGEMENT PROGRAM CONSISTENCY REVIEW PROCESS

*If you are applying for a U.S. Army Corps of Engineers (Corps) §404 or §10 permit for a project within Texas' coastal zone\*, the federal Coastal Zone Management Act of 1972 (16 U.S.C.A. §§1451-1464) requires your project to be consistent with the State of Texas' Coastal Management Program (CMP).*

### THE TEXAS COASTAL MANAGEMENT PROGRAM

The CMP is designed to improve management of our coastal resources by, among other things, increasing coordination between state and federal agencies in their review and issuance of permits for projects affecting the coastal zone. The CMP coordinates these agencies' regulatory programs by ensuring that each agency applies the same policies in the same way when deciding whether to issue permits.

The Coastal Coordination Council (Council) administers the CMP. Its members are the commissioner of the Texas General Land Office; a member of the Railroad Commission of Texas (RRC) and the State Soil and Water Conservation Board; the chairs of the Texas Natural Resource Conservation Commission (TNRCC), Parks and Wildlife Commission, Texas Transportation Commission, and Texas Water Development Board; and four public members appointed by the governor to represent coastal residents, local governments, business, and agriculture.

The Council can review permit decisions made by the three primary agencies with jurisdiction over wetlands and other waters of the United States (the Corps, the TNRCC, and the RRC). The purpose of Council review is to resolve disagreements among agencies and to ensure the agencies are applying their policies in a consistent manner (which is why the process is called "consistency review").

### PROCESS

*The exact timing and process for consistency review depends on the type of activity for which you are seeking a permit.* The process and responsibilities of the applicant, Corps, TNRCC, RRC, and Council are outlined below and on the attached flowchart.

#### 1. Applicant's Certification of Consistency

If your project is within the coastal zone, you must certify in the §404 or §10 permit application that the project is consistent with the CMP goals and policies. You must also provide the information listed in the "Application Requirements" section of this document.

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\* Maps delineating the coastal zone boundary are attached.

Both the consistency certification and this information must be included in the application when you file it with the Corps. *If your project is outside the coastal zone, but impacts natural resources within the zone, it may also be subject to consistency review. Please contact the Council staff at 1-800-85BEACH if you think your project may fall into this category.*

## **2. Corps Notification to the Council**

Upon determining that the §404 or §10 permit application is for a project within the coastal zone and is "administratively complete" (i.e., contains all required information), the Corps will forward a copy of the application to the Council secretary for distribution to the Council members and appropriate state agencies. The Council secretary will send the applicant a letter acknowledging receipt of the application.

## **3. Request for Additional Information**

The Council has 15 days from the date the application is sent to request you to supply any missing information. Once you supply the missing information, the Council's review begins.

## **4. Public Notice and Comment**

The Corps will issue a joint public notice advising the public that the Corps, the Council, and the TNRCC or RRC are soliciting comments on the project. The Council will also publish notice in the Texas Register soliciting comments on the consistency of the project. Public comment will be accepted for 30 days. The Corps will schedule interagency meetings for the review of the applications and to exchange comments.

## **5. §401 Certifications and Thresholds**

Certain Corps permits must be certified for compliance with state water quality standards under §401 of the Clean Water Act (33 U.S.C.A. §§1251-1387). The RRC is the state agency that issues §401 Certifications for exploration, production, and transportation by pipeline of oil and gas. The TNRCC issues §401 Certifications for all other activities.

The CMP coordinates §401 Certification and consistency review by delegating some consistency decisions to the TNRCC and RRC. If a project requiring a §401 Certification from the TNRCC or RRC is *below* the review thresholds described below, the TNRCC or RRC makes the final decision as to whether the project is consistent with the CMP. Once the project is determined to be below the TNRCC's or RRC's thresholds, the Council no longer participates in the permitting process.

*TNRCC §401 Certification review threshold: Disturbance of less than one acre of a critical area<sup>†</sup> and discharge of less than 1000 cubic yards of material.*

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<sup>†</sup> Critical areas are defined in the CMP as coastal wetlands, submerged aquatic vegetation, hard substrate reefs, oyster reefs, and tidal sand or mud flats.

RRC §401 Certification review threshold: Disturbance of less than five acres of a critical area or excavation of no more than 10,000 cubic yards of material from a critical area, except with respect to submerged aquatic vegetation or tidal sand or mud flats south of Pass Cavallo, in which case the threshold is the disturbance of less than ten acres.

If a project requiring a §401 Certification from the TNRCC or RRC is *above* the review thresholds described above, then it is subject to further Council review.

## **6. Referral to the Council**

Within 45 days of receiving all required information, the Council will decide either that (1) the project is consistent with the CMP, or (2) there are problems with the project and it will be "referred" (i.e. placed on the agenda of a Council meeting) for a formal vote on consistency. Referring a project for a formal vote requires written requests from three Council members. *The Council also has the option of deferring its decision until the TNRCC or RRC has proposed a §401 Certification for the project, in which case the Council has until 13 days after the §401 Certification is proposed to make this decision.* The Council Secretary will send letters notifying the applicant whether the Council has deferred its decision until the §401 Certification is proposed and when the Council has either found the project consistent or referred it for a formal vote.

## **APPLICATION REQUIREMENTS**

To begin the Council's review process, the following information must be included in the permit application that you file with the Corps of Engineers.

1. A detailed description of the proposed activity. Maps, diagrams, technical data, and other relevant material must be submitted when a written description will not adequately describe the proposed action.
2. A list identifying all federal, state, and local permits or authorizations required for the proposed activity.
3. A brief assessment of the probable effects of the proposed action on Coastal Natural Resource Areas (CNRAs).
4. The following statement: "The proposed activity complies with the enforceable policies of the Texas Coastal Management Program and will be conducted in a manner consistent with such policies".

## **ASSISTANCE TO APPLICANTS**

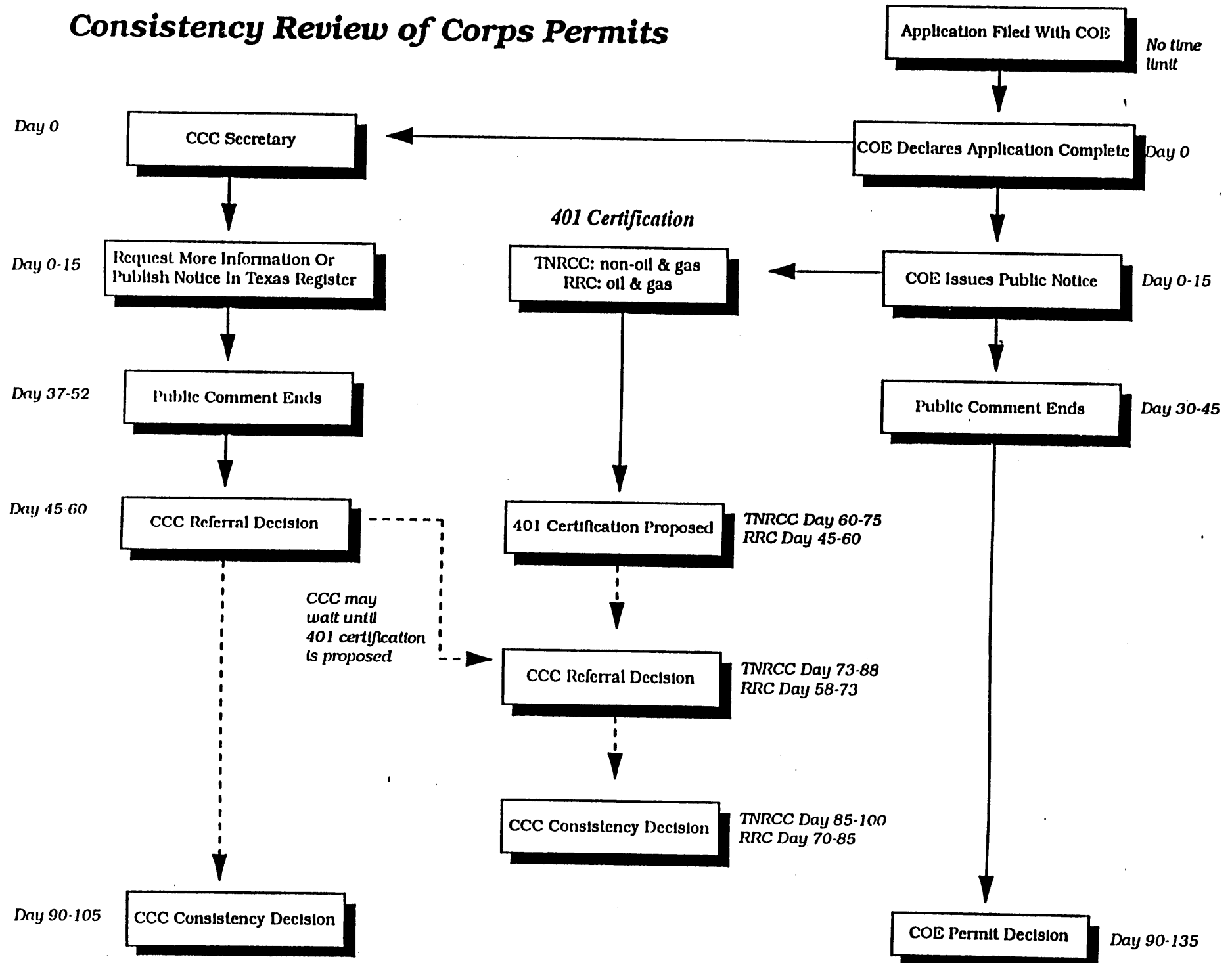
The state of Texas has established a coastal permitting assistance office to help small businesses, municipalities, and individuals with environmental permitting issues along the coast. The permitting office is cooperatively administered by the Texas Department of Commerce, Texas General Land Office, Texas Natural Resource Conservation Commission, Texas Railroad

Commission, and the Texas Parks and Wildlife Department. The permitting assistance office is located in Corpus Christi and provides permit assistance in counties located within the Texas Coastal Management Program boundary. To request assistance, please contact the Permitting Assistance Coordinator at 1-888-3-PERMIT.

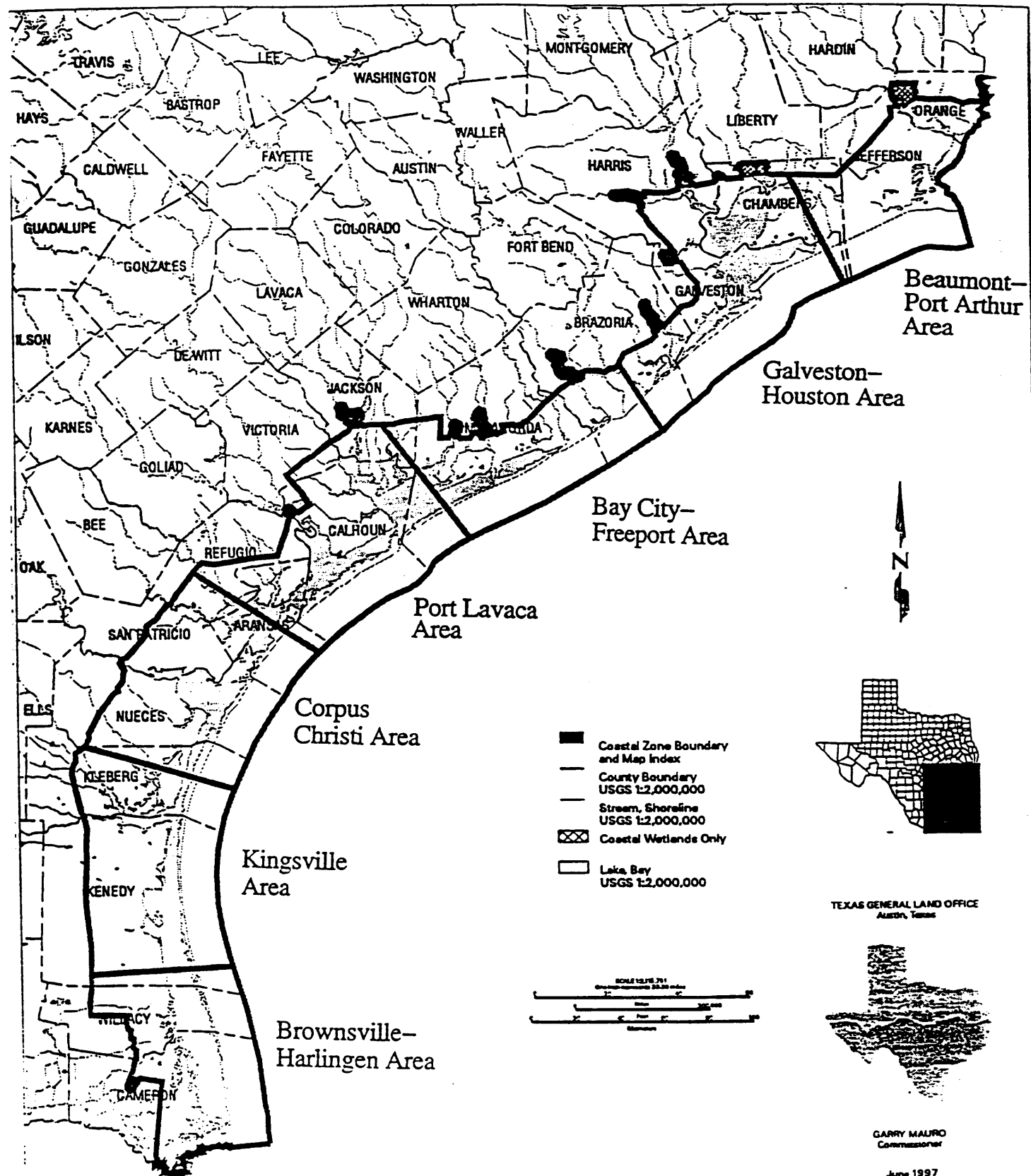
Russell W. Kiesling  
Permitting Assistance Coordinator  
Small Business and Individual Permitting Assistance Office  
Texas A&M University - Corpus Christi  
Natural Resources Building, Suite 2400  
6300 Ocean Drive  
Corpus Christi, Texas 78412-5599

Toll Free: 1-888-3-PERMIT  
Phone: 512/980-3050  
FAX: 512/980-3040

# Consistency Review of Corps Permits



# Texas Coastal Management Program Map Index



# Beaumont - Port Arthur Area

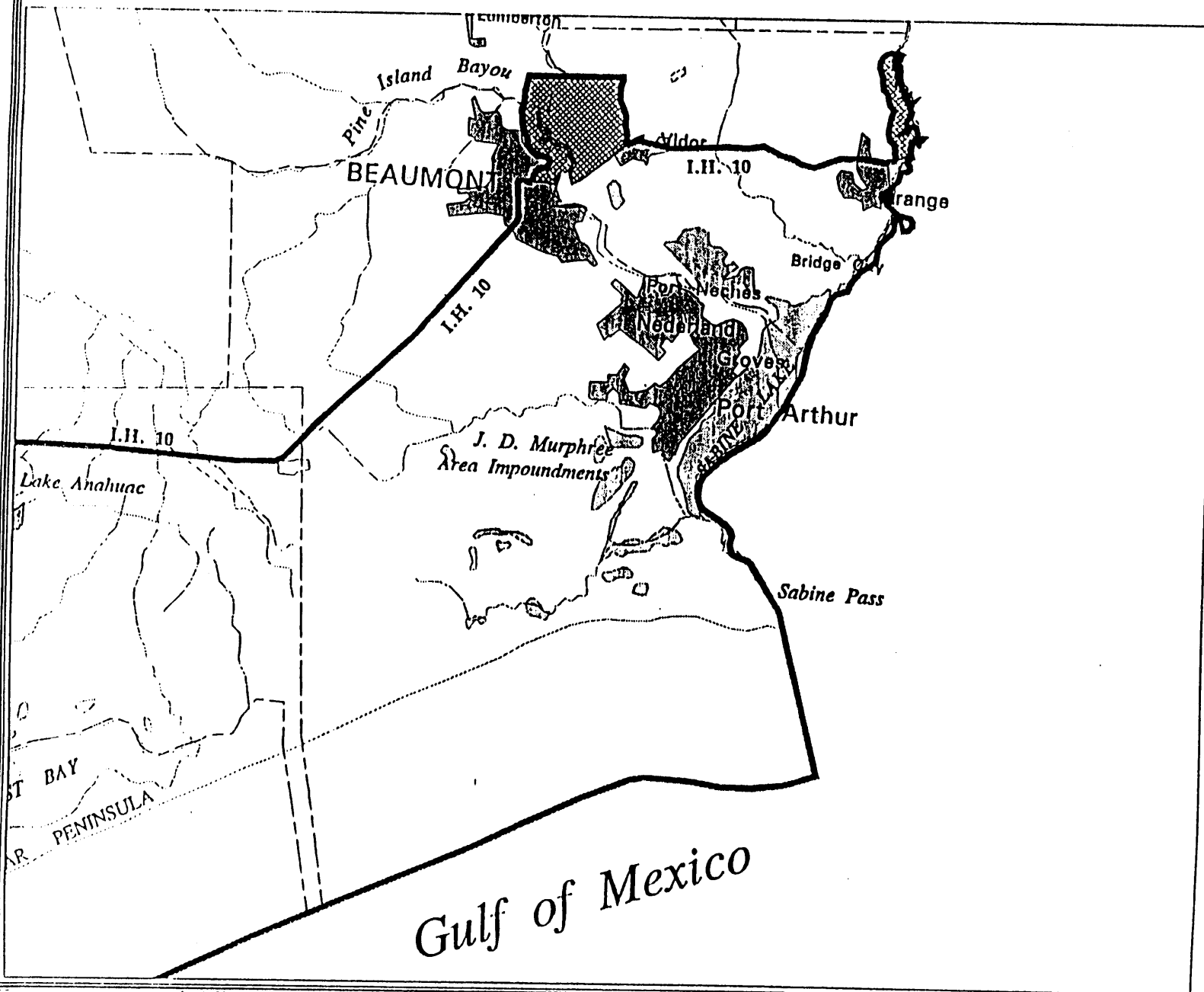
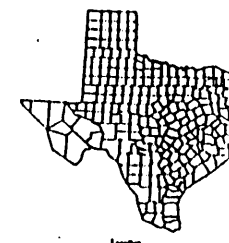
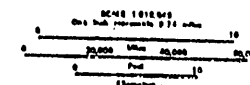
TEXAS GENERAL LAND OFFICE  
Austin, Texas



GARRY MAURO  
Commissioner  
October 1985



- Coastal Zone Boundary
- Coastal Wetlands Only
- County Boundary
- Stream, Shoreline
- Lake, Bay
- Urban Area



# Galveston - Houston Area

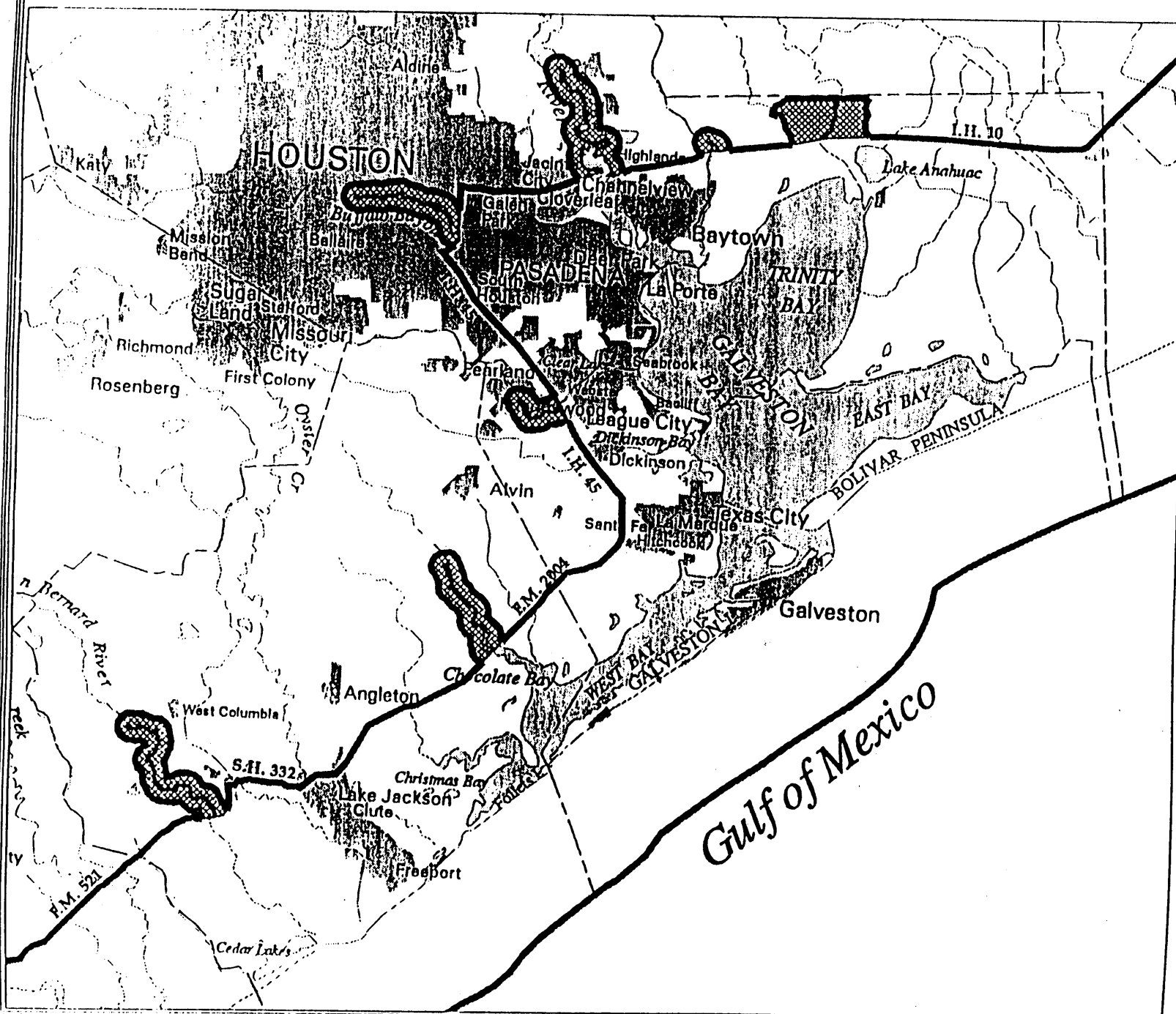
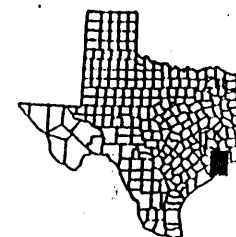
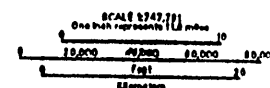
TEXAS CENTRAL LAND OFFICE  
Austin, Texas



GARRY MAURO  
Cartographer  
June 1997



- Coastal Zone Boundary
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- USGS 1:2,000,000
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- USGS 1:2,000,000
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- USGS 1:2,000,000





# Bay City - Freeport Area

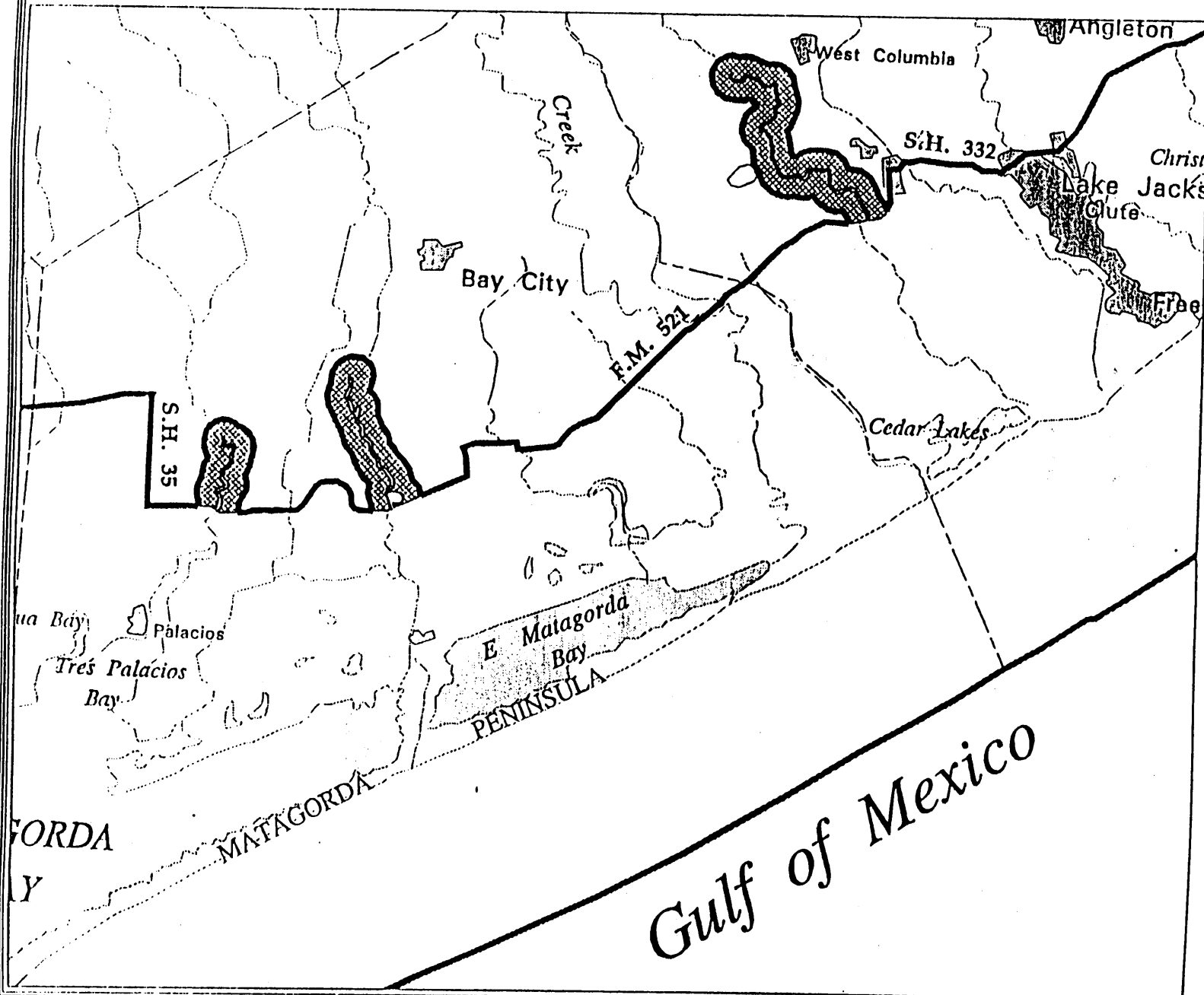
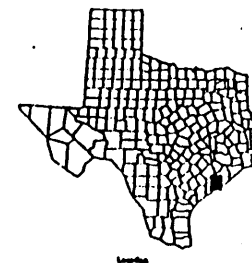
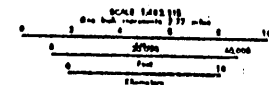
TEXAS GENERAL LAND OFFICE  
Austin, Texas



GARRY MAURO  
Commissioner  
October 1995



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# Port Lavaca Area

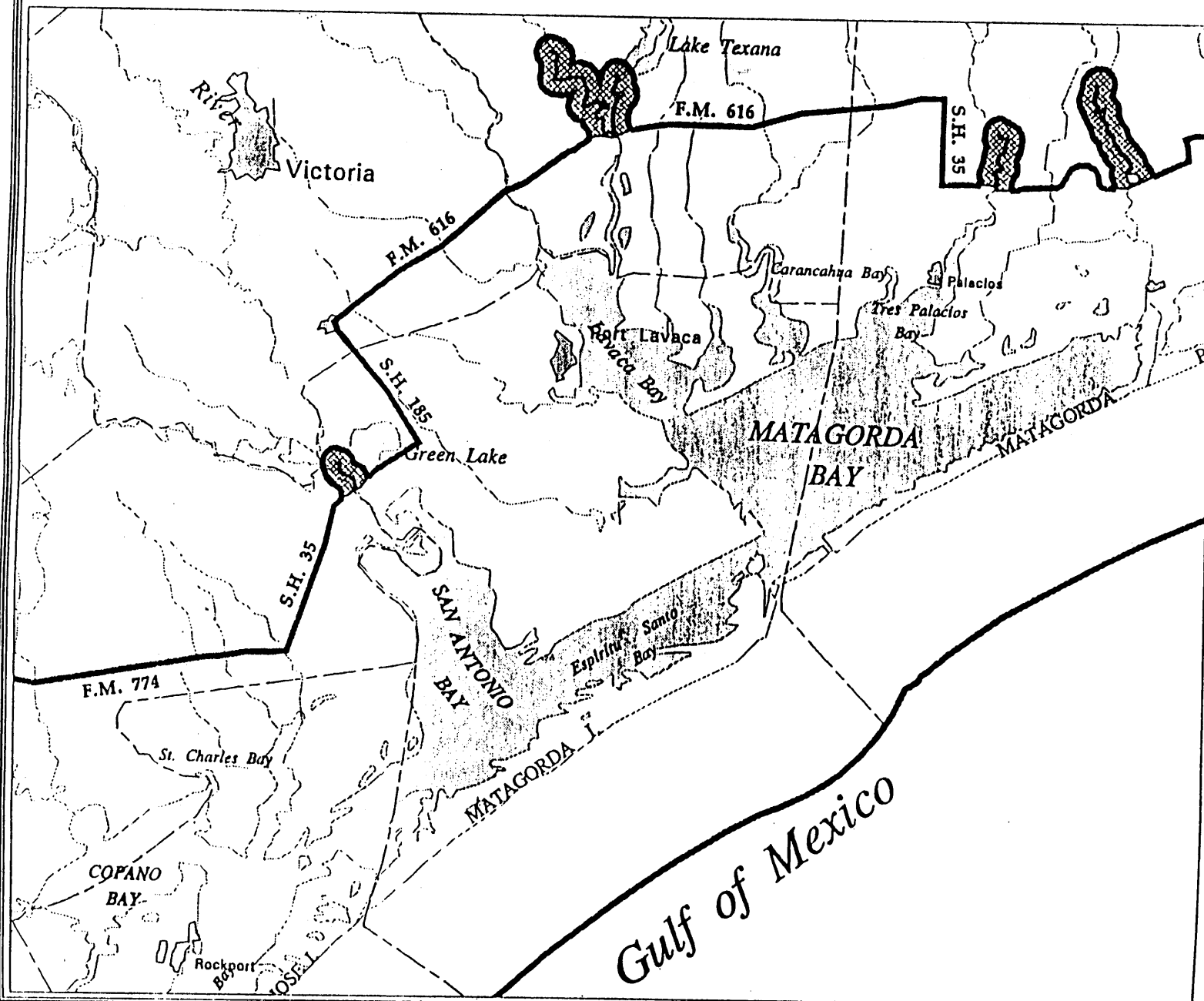
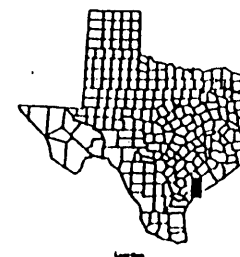
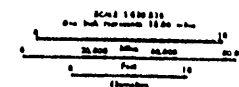
TEXAS GENERAL LAND OFFICE  
Austin, Texas



GARRY AMIHO  
Commissioner  
October 1996



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# Corpus Christi Area

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Austin, Texas



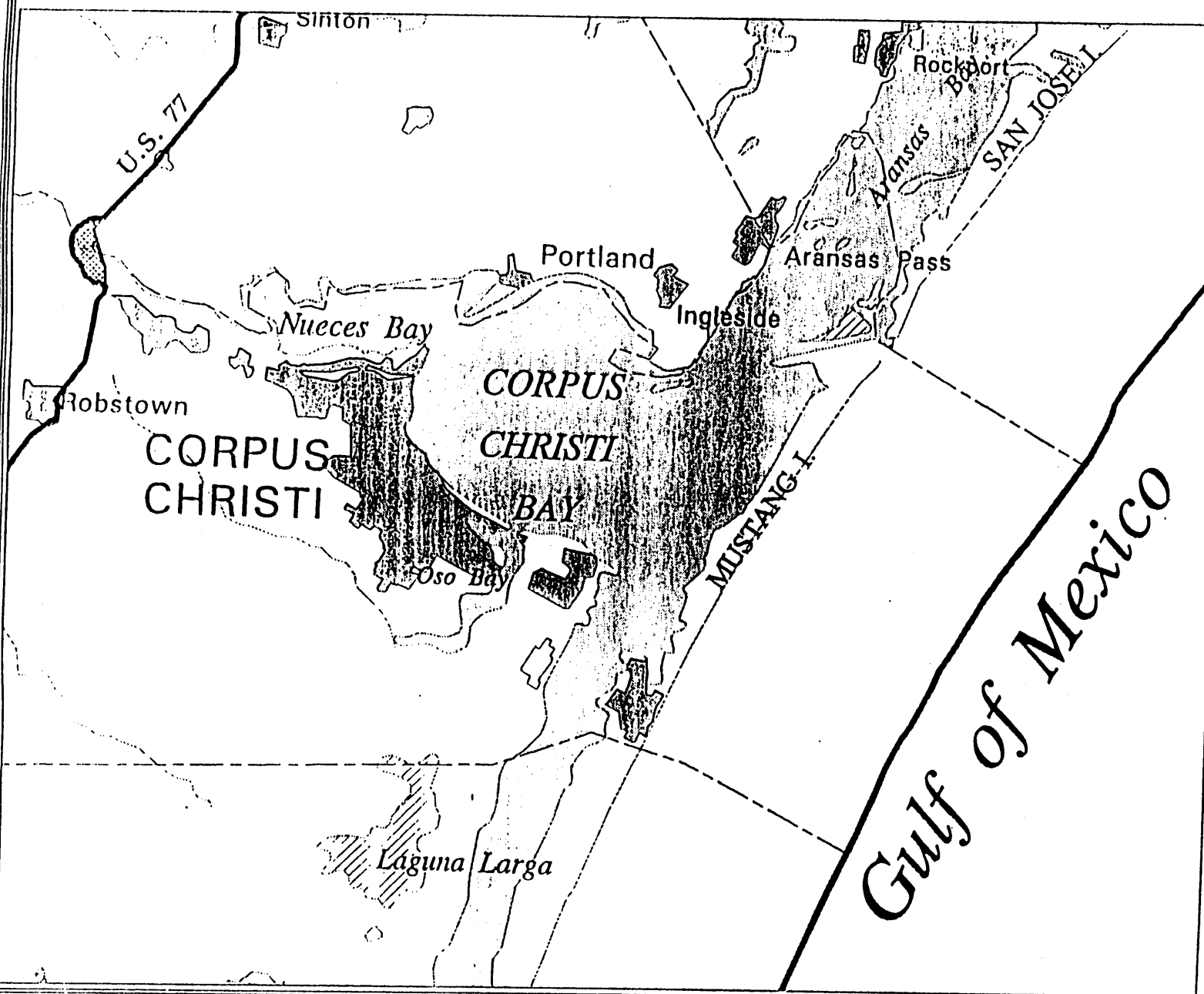
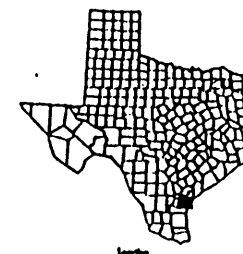
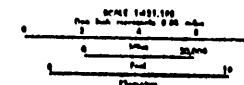
GARY MAURO

Commissioner

October 1985



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# Kingsville Area

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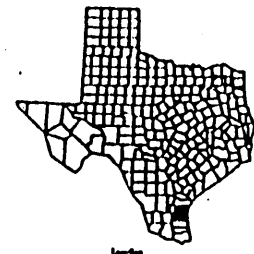
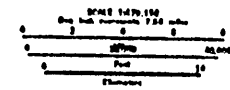


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Kingsville

U.S. 77

U.S. 77

Laguna Larga

Alazan Bay

BAFFIN BAY

DRE ISLAND

Gulf of Mexico

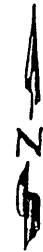
# Brownsville - Harlingen Area

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Austin, Texas

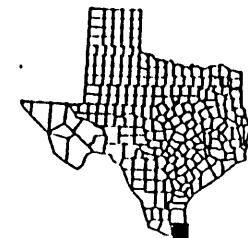
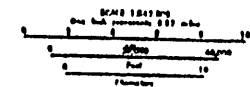


GARRY MAURO  
Commissioner

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Location

